

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

RICARDO QUINTERO-DIARTE

PETITIONER

V.

CIVIL ACTION NO. 3:23-CV-401-DPJ-ASH

WARDEN, FCI YAZOO CITY LOW

RESPONDENT

ORDER

Ricardo Quintero-Diarte alleges prison officials have failed to apply his First Step Act (FSA) credits toward an early release. The habeas petition is before the Court on the Report and Recommendation of the United States Magistrate Judge. R&R [8]. The Magistrate Judge recommends dismissing the petition because the United States Immigration and Customs Enforcement issued a Final Administrative Removal Order on August 18, 2023. Title 18 U.S.C. § 3632(d)(4)(E)(i) provides that a prisoner who is the subject of a final order of removal is ineligible for the application of FSA time credits.

The R&R issued on February 28, 2024, and Petitioner had fourteen days to object to it if he wished. Fed. R. Civ. P. 72(b)(2); *see* R&R [8] at 1 (advising Petitioner of deadline). Petitioner did not object.

“When no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Fed. R. Civ. P. 72(b) advisory committee’s note (1983), *quoted in Douglass v. United Servs. Auto. Ass’n*, 79 F.3d 1415, 1420 (5th Cir. 1996) (en banc), *superseded on other grounds by* 28 U.S.C. § 636(b)(1) *as noted in Alexander v. Verizon Wireless Servs., L.L.C.*, 875 F.3d 243, 248 (5th Cir. 2017). Finding no clear error, the Court accepts the well-reasoned recommendation of the Magistrate Judge.

IT IS, THEREFORE, ORDERED that the Report and Recommendation [8] of the United States Magistrate Judge is adopted as the finding and holding of this Court. The habeas petition is dismissed.

A separate judgment will be entered in accordance with the Order as required by Rule 58 of the Federal Rules of Civil Procedure.

SO ORDERED AND ADJUDGED this the 18th day of March, 2024.

s/ Daniel P. Jordan III
CHIEF UNITED STATES DISTRICT JUDGE